

Before The
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

RATE ADJUSTMENT DUE TO EXTRAORDINARY
OR EXCEPTIONAL CIRCUMSTANCES

Docket No. R2013-11

**REPLY COMMENTS OF THE NATIONAL POSTAL MAIL HANDLERS UNION IN
SUPPORT OF POSTAL SERVICE REQUEST FOR RATE ADJUSTMENT**

The National Postal Mail Handlers Union (NPMHU) submits these reply comments to address certain points raised by various commentators in this proceeding.

1. In response to the Postal Service's request for an extraordinary rate increase above the CPI cap, numerous mailers and the Public Representative have submitted comments in opposition, raising a host of different arguments. Taken together, these comments establish a Sisyphean task for the Postal Service in seeking a rate increase. Under their view, the Postal Service must prove up its damages, and a causal link between the exigent event and its losses, with detailed documentation and near precision; if the Postal Service fails to reach this lofty standard, it must start again. However, in response to this Commission's previous Order, the Postal Service already has engaged in extensive financial analysis and has produced extensive financial information to the Commission and interested parties. To require the Postal Service to go back to the drawing board yet again—as the Public Representative proposes—serves no useful purpose, merely delaying a financial fix that is needed now. If the Commission concludes that the Postal Service has not justified the entirety of its

requested rate increase or has failed to specify an adequate end-date for the requested increase, the Commission should exercise its rate-setting authority to approve some portion of that increase and/or should make plain that the granted rates will be up for consideration as part of the 2016 rate review. But sending the Postal Service back to the starting gate, and asking for yet more data, fails to comply with the statutory mandate that such requests be handled on an “expedited basis” and amounts to the regulatory equivalent of fiddling while Rome burns.

2. Several of the commentators argue that the Postal Service has not shown that the rate increase is “due to” the Great Recession, within the meaning of 39 U.S.C. § 3622(d)(1)(E), because the Postal Service has emphasized its liquidity problem and the lack of any Congressional action to assist the Postal Service by modifying the obligations imposed on it by statute. However, even if the Postal Service would not have made this request but for the liquidity problem or but for Congressional inaction, that does not establish that the desired rate increase is not “due to” the Recession. To employ the analogy used at the Commission hearings in this matter, of a house that is destroyed due to fire—a homeowner may choose not to make an insurance claim on the house, perhaps because the homeowner is so wealthy that it is not worth the paperwork, or because the homeowner did not value the house. But the fact that the homeowner has no other resources, and therefore must make an insurance claim, does not mean that the house’s destruction is not “due to” the fire. So too here. Of course the Postal Service would prefer to avoid a price increase, and the inevitable pressure that an increase would put on demand, but the fact that the Postal Service has stressed that its liquidity problem and lack of Congressional action leaves it with no option other

than to seek an exigent rate adjustment has no bearing on whether the increase is “due to” the Great Recession.

3. Some commentators have also argued that, because the statute and this Commission’s implementing regulations state that “rates may be adjusted on an expedited basis,” 39 U.S.C. § 3622(d)(1)(E), 39 CFR. § 3010.64, they require that the Postal Service seek the rate increase immediately following the extraordinary event. Neither the statute nor the implementing regulations contain any such requirement, however. Both are plain that it is *the Commission* that must proceed quickly, once a request is made by the Postal Service. Forcing the Postal Service to file quickly after an event would be an unwise addition to the statute’s requirements, particularly given that the Postal Service must document how the request is justified by the extraordinary event. While there are some events—such as a hurricane’s destruction of a processing facility—for which the financial impact may be readily ascertainable promptly after the event, there are many other extraordinary circumstances for which the financial impact may be more difficult to determine, and for which the passage of time may be necessary in order for the Postal Service to be able to determine the effects. Moreover, forcing the Postal Service to file soon after the event would decrease the possibility that the Postal Service will find an alternative to raising rates. Here, the Postal Service has spent the last three years cutting costs, modifying its business model, pressing for Congressional assistance, and otherwise attempting to avoid the rate increase. To penalize the Postal Service for taking that time would be an unwise precedent, ultimately harmful to both the Service and the mailers.

4. Two commentators (Valpak and NAMIC) have argued that the increase is not consistent with “best practices of honest, efficient and economical management” because the Postal Service should have cut labor costs more aggressively and done more to “right size” its network. As shown in the NPMHU’s initial Comments, the Postal Service has slashed its labor costs and cut the size of its processing network down to the bone over the last six years, and therefore these comments are utterly unfounded.

Conclusion

The NPMHU urges the Commission to act to grant the Postal Service’s request for an exigent rate increase, in whole or in part, to assist the Postal Service in recovering from the volume and contribution losses caused by the Great Recession, as “such adjustment is reasonable and equitable and necessary to enable the Postal Service, under best practices of honest, efficient, and economical management, to maintain and continue the development of postal services of the kind and quality adapted to the needs of the United States.”

Respectfully submitted,

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